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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/621,098	07/16/2003	Jed W. Zenko	7433-000004/COA	9275

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EXAMINER

NICHOLSON, ERIC K

ART UNIT PAPER NUMBER

3679

DATE MAILED: 10/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/621,098

Applicant(s)

ZENKO ET AL.

Examiner

Eric K Nicholson

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-44 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 29-44 is/are allowed.
- 6) ☒ Claim(s) 1-7, 10-13, 17 and 19-24 is/are rejected.
- 7) ☒ Claim(s) 8, 9, 14-16, 18 and 25-28 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 7/7/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1 and 19 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 and 21 of U.S. Patent No. 6,595,556. Although the conflicting claims are not identical, they are not patentably distinct from each other because the only difference between the present claims 1 and 19 to that of claims 1 and 21, respectively, in the patent is that the patent recites more details about the "spring clip". In other words, claims 1 and 19 of the present invention are broader than that of patented claims 1 and 21 (e.g., the "bore"

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in claim 1 of the application is inherently present in patented claim 1). Therefore, the patent claims 1 and 21 anticipate the application claims 1 and 19, respectively, and anticipation is the epitome of obviousness.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 19 and 24 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. patent 6,086,118 to McNaughton. The device shows a housing 54 having a central flow passage with first and second ends. The housing is adapted to be mounted in a bore formed in the wall structure 49 such that its first end extends into an interior chamber. A spring clip 52 is coupled to the housing and has segments as shown in fig. 5 adapted to engage the bore and prevent removal of the housing from the bore and a male connector 50 having a first end secured to the hose 76 and a second end adapted for retention in the female receptacle associative with the second end of the housing as shown in figs. 4 and 6. For as the claim 24 to see figure 6 which shows the stepped interior surface of the bore and the stepped in complementary surface of the housing. As to the newly added structure of the transversely extending aperture and the spring

clip positioned within the transversely extending aperture, clearly the McNaughton coupling includes such an aperture as shown by aperture 53 in figure 6.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-7,10-13,17 and 19-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. patent 1,182,170 to Rowell in view of U.S. patent 6,086,118 to McNaughton. As to claims 1,10 and 19 the Rowell coupling discloses the claimed device with housing 9, spring clip 12, male connector 16 and retainer 18 however the first end of the male connector is not shown to be connected to a hose. McNaughton discloses that it is known in the art to provide a similar type coupling with a male connector 50 connected at first end to a hose 76 and the second end inserted into a housing member. It would have been obvious to one having ordinary skill in the

art at the time the invention was made to provide the first end of the male connector with a hose connected at its first end such as taught by McNaughton, as is common in the art for allowing flexible alignment of the male connector to the housing thereby eliminating exactness in placement of the end members being connected. As to claim 2 see figure 1 which shows the spring clip 12 extending to engage the wall structure 8. As to claims 3,11 and 20 see groove 11 which forms the aperture in the housing holding the spring clip. As to claims 4,12,17 and 21 see figure 2 which illustrates the leaf spring segments on either side connected via leaf spring center portions of the spring clip 12. As to claims 5,13 and 22 see page 1 lines 90 through 100 which discuss the expansion of the spring clip. As to claims 6 and 23 the lugs of the spring clip are shown to be the end portions of the spring clip 12 as lugs recite no structural limitations. As to claim 7 the thread can be viewed as the projection of the retainer. As to claim 16 the female thread can be viewed as the cavity to which the retainer is mounted.

Allowable Subject Matter

Claims 8,9,14,15,18 and 25-28 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 29-44 are allowed.

Conclusion

Applicant's remarks have been considered however are not deemed to be persuasive. Applicant argues that the now amended claims define over the prior art due to the now claimed transversely extending aperture through the housing the housing and the spring clip extending with the transversely aperture. Applicant's arguments appear to be more limiting than the claims themselves since there is nothing inherent about the term aperture that requires it to extend through. It is the examiner's understanding that an aperture is merely a hole, slit or opening, all of which read on the notch or groove 53 of McNaughton which extends transversely and is considered an aperture.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

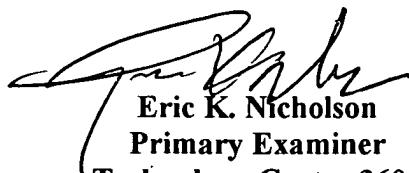
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eric Nicholson whose telephone number is (703) 308-0829. The examiner can normally be reached on Tuesdays thru Fridays from 7:30 to 6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola, can be reached on (703) 308-2686. The fax phone number for Technology Center 3600 is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center receptionist whose telephone number is (703) 308-1113.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll free).

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9/28/2004


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